

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

DETROY LIVINGSTON,

Plaintiff,

v.

GLENN GOORD,

Defendant.

DECISION AND ORDER
99-CV-6169

FILED
04 MAR 18 AM 8:37
U.S. DISTRICT COURT
W.D.N.Y. ROCHESTER

Pending before the Court is a motion by plaintiff Detroy Livingston to compel responses to document requests and interrogatories. (Docket #124). The document requests and interrogatories were served in May of 2003 and defendants contend that the requests are objectionable as untimely and outside of the confines of the scheduling order in this case. (See Docket #125).

The Scheduling Order in this case imposed a deadline of February 28, 2001 for the close of factual discovery and there is no dispute that plaintiff's discovery requests were served well beyond that time period. Despite this fact, the Court is sympathetic to plaintiff's plight for several reasons. First, several of plaintiff's earlier discovery requests were denied by this Court without prejudice to renew following a ruling by Judge Larimer on defendants' summary judgment motion. (See Docket #101). Judge Larimer did not rule on defendants' motion until April 3, 2003. (Docket #111). Currently only six defendants remain in the

case and all allegations involve an alleged assault occurring on February 27, 1997. Second, with a few exceptions, the discovery sought does not appear to be particularly onerous for defendants to respond to. Third, plaintiff claims that he does not possess the necessary documents to prosecute his remaining claims and thus, the prejudice he will suffer from a denial of this motion is substantial. Finally, keeping in mind plaintiff's pro se status, the Court shall review plaintiff's discovery requests on their merits.

Having reviewed plaintiff's discovery requests, it is hereby

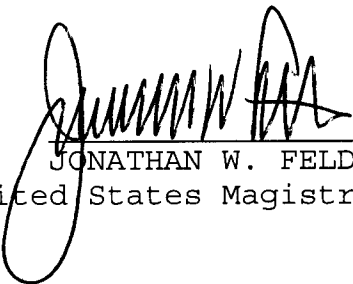
ORDERED that plaintiff's motion is **granted in part**. Defendants shall answer plaintiff's interrogatories (Docket ## 119, 120, 121, 122, 123), as the requests appear to be narrowly tailored to the events taking place on February 27, 1997. It is further,

ORDERED that defendants shall produce documents in response to plaintiff's document request (Docket #118) numbers 5, 9, and 18. The remaining document requests do not appear to be specifically related to the February 27, 1997 alleged assault or are otherwise overbroad or unduly burdensome for defendants to respond to. It is further,

ORDERED that defendants responses (as outlined above) shall be provided to plaintiff on or before **April 26, 2004**. It is further,

ORDERED that in no way shall this Order be construed to permit any further discovery requests to be served by either party. Rather, upon receipt of the aforementioned discovery responses,

discovery in this case shall be closed. This Court will advise Judge Larimer that this matter will be ready to set down for trial.



JONATHAN W. FELDMAN
United States Magistrate Judge

Dated: March 17, 2004
Rochester, New York